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HOUSE No. 3843

The Commonwealth of Massachusetts

INITIATIVE PETITION OF KAREN A. COUGHLIN AND OTHERS.

OFFICE OF THE SECRETARY.
BOSTON, JANUARY 1, 2014.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: — I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, an Initiative Petition for Law entitled “The Patient Safety Act” signed by ten qualified voters and filed with this department on or before December 4, 2013, together with additional signatures of qualified voters in the number of 90,826, being a sufficient number to comply with the Provisions of said Article

Sincerely,

WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

The Commonwealth of Massachusetts

In the Year Two Thousand and Fourteen.

An Act patient safety act.

Be it enacted by the People, and by their authority, as follows:

- 1 Section 1. Chapter 111 of the General Laws is hereby amended by
2 adding the following sections 229 to 235:
3 Section 229. Definitions
4 As used in sections 229 through 235 the following words shall
5 have the following meanings:
6 A patient is said to be assigned to a registered nurse if the
7 registered nurse accepts responsibility for the patient's nursing
8 care.
9 "Facility", a hospital licensed under Section 51, of Chapter 111 of
10 the General Laws, the teaching hospital of the University of
11 Massachusetts medical school, any licensed private or state-owned
12 and state-operated general acute care hospital, an acute psychiatric

13 hospital, an acute care specialty hospital, or any acute care unit
14 within a state operated healthcare facility. This definition shall not
15 include rehabilitation facilities or long-term care facilities.

16 “Health Care Workforce”, personnel employed by or contracted to
17 work at a facility that have an effect upon the delivery of quality
18 care to patients, including but not limited to registered nurses,
19 licensed practical nurses, unlicensed assistive personnel, service,
20 maintenance, clerical, professional and technical workers, or other
21 health care workers.

22 "Nursing care", care which falls within the scope of practice as
23 defined in Section 80B of chapter 112 of the General Laws or is
24 otherwise encompassed within recognized standards of nursing
25 practice, including assessment, nursing diagnosis, planning,
26 intervention, evaluation and patient advocacy.

27 Section 230: The maximum number of patients assigned to a
28 registered nurse in a facility shall not exceed the limits enumerated
29 in this section. However, nothing shall preclude a facility from

30 assigning fewer patients to a registered nurse than the limits
31 enumerated in this section.

32 A. In all units with intensive care patients and in all units with
33 critical care patients, the maximum patient assignment is
34 one (1) patient. A registered nurse in such units may accept
35 a second intensive care or critical care patient if that nurse
36 assesses that each patient's condition is stable.

37

38 B. In all units with step-down/intermediate care patients, the
39 maximum patient assignment of step-down/intermediate
40 patients is three (3).

41

42 C. In all units with post anesthesia care (PACU) patients the
43 maximum patient assignment of PACU patients under
44 anesthesia is one (1). The maximum patient assignment of
45 PACU patients post anesthesia is two (2).

46

47 D. In all units with operating room (OR) patients the
48 maximum patient assignment of OR patients under
49 anesthesia is one (1). The maximum patient assignment of
50 OR patients post anesthesia is two (2).

51

52

53 E. In the Emergency Department:

54 • The maximum patient assignment of critical care or
55 intensive care patients is one (1). A registered nurse
56 may accept a second critical care or intensive care
57 patient if that nurse assesses that each patient's
58 condition is stable.

59 • The maximum patient assignment of urgent non-
60 stable patients is two (2).

61 • The maximum patient assignment of urgent stable
62 patients is three (3).

63 • The maximum patient assignment of non-urgent
64 stable patients is four (4).

65

66 F. As used in this subsection, couplet shall mean one mother
67 and one baby. In all units with maternal child care patients:

- 68 • The maximum patient assignment of active labor
69 patients is one (1) patient.
- 70 • The maximum patient assignment during birth is
71 one nurse responsible for the mother and, for each
72 baby, one nurse whose sole responsibility is the
73 baby.
- 74 • The maximum patient assignment of immediate
75 postpartum patients is one couplet, and in the case
76 of multiple births, one nurse for each additional
77 baby.
- 78 • The maximum patient assignment of postpartum
79 patients is six (6) patients or three (3) couplets.
- 80 • The maximum patient assignment of intermediate
81 care babies is three (3) babies. The nurse may

82 accept a fourth intermediate care baby if the nurse
83 assesses that each baby's condition is stable.

84 • The maximum patient assignment of well-baby
85 patients is six (6) babies.

86

87 G. In all units with pediatric patients the maximum patient
88 assignment of pediatric patients is four (4).

89

90 H. In all units with psychiatric patients the maximum patient
91 assignment of psychiatric patients is five (5).

92

93 I. In all units with medical, surgical and telemetry patients the
94 maximum patient assignment of medical, surgical and
95 telemetry patients is four (4).

96

97 J. In all units with observational/outpatient treatment patients
98 the maximum patient assignment of
99 observational/outpatient treatment patients is four (4).

100

101 K. In all units with transitional care patients the maximum
102 patient assignment of transitional care patients is five (5).

103

104 L. In all units with rehabilitation patients the maximum patient
105 assignment of rehabilitation patients is five (5).

106

107 M. In any unit not otherwise listed the maximum patient
108 assignment is four (4).

109 Section 231: Each facility shall implement the patient limits
110 established by Section 230 without
111 diminishing the staffing levels of its health care workforce.

112 Section 232: The Massachusetts Health Policy Commission shall
113 promulgate regulations governing the implementation and
114 operation of this act.

115 Section 233: Patient Acuity System. Each facility shall develop a
116 patient acuity system, to determine if the maximum number of
117 patients that may be assigned to a unit's registered nurses on a

118 particular shift should be lower than the limits specified in Section
119 230, in which case that lower number will govern for the duration
120 of that shift. The patient acuity system shall be written so as to be
121 readily used and understood by registered nurses, and it shall
122 consider criteria including but not limited to: (1) the need for
123 specialized equipment and technology; (2) the intensity of nursing
124 interventions required and the complexity of clinical nursing
125 judgment needed to design, implement and evaluate patients’
126 nursing care plans consistent with professional standards of care;
127 (3) the skill mix of members of the health care workforce
128 necessary to the delivery of quality care for each patient; and (4)
129 the proximity of patients, the proximity and availability of other
130 healthcare resources, and facility design. A facility’s patient acuity
131 system shall, prior to implementation, be certified by the Health
132 Policy Commission as meeting the above criteria, and the
133 Commission may issue regulations governing such systems,
134 including their content and implementation.

135 Section 234: This act shall not be construed to impair any
136 collective bargaining agreement or any other contract in effect as
137 of July 1, 2015 that permits limits that are greater than the limits
138 established by this act but shall have full force and effect upon the
139 earliest expiration date of any such collective bargaining
140 agreement or other contract. Nothing in this act shall prevent the
141 enforcement of terms in a collective bargaining agreement or other
142 contract that provides for lower limits than those established by
143 this act.

144 Section 235: Enforcement. A facility's failure to adhere to the
145 limits set by Section 230 and adjusted pursuant to Section 233,
146 shall be reported by the Health Policy Commission to the Attorney
147 General for enforcement, for which the Attorney General may
148 bring a Superior Court action seeking injunctive relief and civil
149 penalties. A separate and distinct violation, for which the facility
150 shall be subject to a civil penalty of up to twenty-five thousand
151 dollars, shall be deemed to have been committed on each day
152 during which any violation continues after written notice thereof

153 by the Health Policy Commission to the authority in charge of the
154 facility is received. The requirements of this act, and its
155 enforcement, shall be suspended during a state or nationally
156 declared public health emergency.

157 Section 2: Severability. The provisions of this law are severable,
158 and if any clause, sentence, paragraph or section of this law or an
159 application thereof shall be adjudged by any court of competent
160 jurisdiction to be invalid, such judgment shall not affect, impair, or
161 invalidate the remainder thereof but shall be confined in its
162 operation to the clause, sentence, paragraph, section or application
163 adjudged invalid and such clause, sentence, paragraph, section or
164 application shall be reformed and construed so that it would be
165 valid to the maximum extent permitted.

166 Section 3: The provisions of Sections 229 to 235 shall be effective
167 commencing on July 1, 2015, except that regulations required by
168 Section 232 and 233 shall be promulgated to be effective no later
169 than January 1, 2016.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Karen A. Coughlin	30 Smith Road	Mansfield
Karen Ann Higgins	85 Keith Street	Weymouth
Donna Kelly-Williams	110 Mary Street	Arlington
Katherine Murphy	16 Powder Mill Road	Framingham
Karen Powers	235 Pleasant Street	Reading
Marie E. Ritacco	13 Sharry Lane	Auburn
Donna L. Stern	42 Adams Road, #13	Greenfield
Nora A. Watts	62 Warren Street	Westborough
Colleen E. Wolfe	181 Oxford Road	Charlton
Susan J. Wright Thomas	2 Christine Road	Hull

Summary of 13-06.

This proposed law would limit how many patients could be assigned to a registered nurse in Massachusetts hospitals and certain other health-care facilities, but not rehabilitation or long-term care facilities. The maximum number of patients per registered nurse would be:

- In units with intensive care and critical care patients: 1, or 2 if the nurse assessed each patient's condition as stable.
- In units with step-down/intermediate care patients: 3.
- In units with post anesthesia care patients: 1 patient under anesthesia; 2 patients post anesthesia.
- In units with operating room patients: 1 patient under anesthesia; 2 patients post anesthesia.
- In the emergency department: 1 critical or intensive care patient, or 2 if the nurse assessed each patient's condition as stable; 2 urgent non-stable patients; 3 urgent stable patients; or 4 non-urgent stable patients.
- In units with pediatric, medical, surgical, telemetry, or observational/outpatient treatment patients: 4.
- In units with psychiatric, transitional care, or rehabilitation patients: 5.
- In units with maternity patients: (a) active labor patients: 1 per nurse; (b) during birth: 1 mother per nurse, and 1 baby per nurse; (c) immediate postpartum: 1 mother and 1 baby per nurse, and in the case of multiple births, 1 additional baby per nurse; (d) postpartum: 6 patients per nurse; (e) intermediate care: 3 babies per nurse, plus a 4th if the nurse assessed each baby's condition as stable; (f) well babies: 6 per nurse.
- In any other unit: 4 patients per nurse.

The hospital or other covered facility would have to follow these limits without reducing the staffing levels of other personnel who affect the quality of patient care. The proposed law would not override any collective bargaining agreement or other contract in effect on July 1, 2015 that set higher patient limits, but the proposed law's limits would take effect after any such agreement or contract expired.

The proposed law would also require a hospital or other covered facility to develop a patient acuity system to decide if the maximum

number of patients assigned to a nurse on a particular shift should be lower than the above limits. The patient acuity system would have to be written to be easily used by nurses, and would consider factors such as the need for specialized equipment, the intensity of interventions and complexity of nursing judgments required, the skills of other personnel necessary to deliver quality care to each patient, and the physical proximity of patients and other health care resources. The Health Policy Commission would have to certify the patient acuity system as meeting the above criteria.

The Health Policy Commission would have to report a violation of patient assignment limits to the Attorney General, who could file suit to enforce the proposed law and obtain a civil penalty of \$25,000 for each day a violation continued after the Commission notified the hospital or other covered facility. The proposed law's requirements would be suspended during a state or nationally declared public health emergency. The Commission would issue regulations to implement the proposed law.

The proposed law would take effect on July 1, 2015. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

CERTIFICATE OF THE ATTORNEY GENERAL.

September 4, 2013.

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 13-06: Patient Safety Act.

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Cordially,

MARTHA COAKLEY,
Attorney General.